PATENT
8028-1019

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Saburou IKEDA   Conf. 5839

Application No. 09/893,706   Group 3639

Filed June 29, 2001   Examiner A. Robinson Boyce

SYSTEM FOR TOLL PAYMENT AND TRANSPORTATION MANAGEMENT

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents   May 23, 2006
P.O. Box 1450
Alexandria, VA   22313-1450

Sir:

Appellant requests a pre-appeal brief review of the final rejection in the above-identified application. No amendments are being filed with this request.

A Notice of Appeal is filed herewith.

The review is requested for the reasons advanced on the attached sheets.

Respectfully submitted,

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REASONS IN SUPPORT OF REQUEST FOR REVIEW

A pre-appeal brief review is respectfully requested because the rejections of the independent claims include clear factual errors, or in the alternative a legal error, as explained below.

Claims 1-20 and 23 are pending. Claims 1, 2, 17-20 and 23 are the independent claims and each is the subject of the present request for a pre-appeal brief review.

Claims 1-20 and 22-23 were rejected as obvious over TREYZ et al. 6,711,474 in view of HASSETT 6,653,946.

Claim 1 recites that a server comprises a second memory for storing names of contractors or their car numbers, and a toll calculation unit.

Column 78, lines 8-10 and lines 27-30 of the TREYZ reference is offered as disclosing a digital camera, which captures images of license plates and stores the images in a memory of a personal computer. The Examiner concludes that the memory would meet the limitation of the recited second memory.

The Examiner acknowledges that TREYZ does not disclose that a server includes a toll calculation unit, and relies on HASSETT for the suggestion to modify TREYZ to include this feature.

The Examiner makes a first clear factual error that the above memory of TREYZ meets the recited second memory. There is no clear factual support for this statement and it is clear that

this memory of TREYZ is a memory of the personal computer 14, not of a server.

In any event, even if the personal computer were seen as including the server, the information stored therein is not names of contractors or their car numbers. Rather, the images stored in memory are pictures taken of a person that is tailgating the user's or contractor's car.

The Examiner makes a second clear factual error that the memory of TREYZ stores the names of contractors or their car numbers. Clearly, TREYZ takes pictures of another car's license plate. That is, TREYZ does not disclose that the information stored in the memory is related to the contractor (the person having a contract with the toll collection company) or the cars of such contactors and, by contrast, indicates that the stored information is information relevant to a person other than the user that is captured by a camera of the user.

As to the toll collection unit, column 4, lines 31-44 of HASSETT, noted in the Official Action, disclose a dedicated toll collection facility that transmits a unique signal which indicates the location of the toll collection facility and the amount due at that toll collection facility. An in-vehicle toll processor receives the signal from the toll collection facility and updates the information based on where the vehicle enters and exits the toll route.

However, such information is stored in an in-vehicle memory, not a memory of a server connected with a base station.

The Examine makes a third clear factual error by stating that HASSETT discloses that a server includes a toll calculation unit. There is no factual support for this statement and it is clear from HASSETT that the toll calculation unit is part of each individual vehicle, not part of a remote server that is able to serve plural vehicles.

If on the other hand, the Examiner is taking the position that HASSETT is relied upon only for the disclosure of a toll calculation unit, with the unit being placed in a server, then this would be a clear legal error, because it is impermissible to pick and choose features from a reference absent a suggestion or motivation to do so. Clearly, HASSETT relies on each individual vehicle having a toll calculation unit calculating a toll for that vehicle. Selecting the toll calculation unit for calculating a toll while ignoring that the toll calculating unit is part of a server that is in contact with a portable device (not within the portable device itself), is a legal error.

Accordingly, the rejection of claim 1 includes factual errors, or in the alternative, a legal error.

The analysis above regarding claim 1 is equally applicable to claims 2, 17-20 and 23.

The dependent claims are patentable at least for depending from an allowable independent claim.

In view of this, it is believed that the rejections of record include clear factual errors and/or legal error and cannot be sustained and must be reversed, and such is respectfully requested.